

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TASER INTERNATIONAL, INC., *et al.*,)
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Plaintiffs,)
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v.)
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)
MORGAN STANLEY & CO., INC., *et al.*,)
)
)
Defendants.)
_____)

Case No.:
1:10-CV-03108-JOF

FILED IN CHAMBERS
U.S.D.C. Atlanta
NOV 22 2010
By: JAMES N. HATTEN, Clerk
Deputy Clerk

ORDER

WHEREAS, Plaintiffs filed a motion to compel Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”) to produce documents relating to the Certain Threshold Securities Investigation (the “Investigation”).¹

WHEREAS, Merrill Lynch has agreed to produce by no later than November 8, 2010, all documents, e-mail, data, correspondence, and other materials (“Documents”) sent to or received from the Securities Exchange Commission, AMEX, the Department of Justice or the United State Attorney

¹ Plaintiffs believe that the removal of this action was improper, and have moved to remand this action to the State Court. This Order shall not be construed as Plaintiffs’ agreement or consent to the removal or the jurisdiction of this Court.

(hereafter, the “Agencies”) in connection with the Investigation, with the exception of transcripts and audio recordings (together the “Recordings”) of telephone calls in the State of Illinois. Merrill Lynch has also agreed to produce all Documents sent or received by Merrill Lynch Professional Clearing Corp. and Merrill Lynch PAX to or from the Agencies in connection with the Investigation.

WHEREAS, Merrill Lynch has agreed to produce transcripts of any testimony or interviews given by any current or former employee of Merrill Lynch, Merrill Lynch Professional Clearing Corp., or Merrill Lynch PAX in connection with the Investigation.

WHEREAS, Merrill Lynch cannot identify the participants on many of the Recordings that were provided to the Agencies and cannot confirm at this time that all parties consented to the extent required by Illinois’s two-party consent statute, 720 Ill. Comp. Stat. 5/14-2, and/or other applicable privacy and electronic communication privacy statutes.

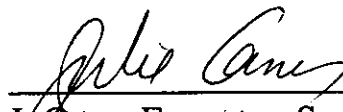
WHEREAS, Merrill Lynch has refused to produce the Recordings absent a court order.

WHEREFORE, having heard from the parties, the Court hereby ORDERS that Merrill Lynch shall produce to Plaintiffs on or before November 8, 2010, all Recordings produced to or by the Agencies in

connection with the Investigation. Nothing in this Order shall be construed as a finding that the Recordings or any other documents relating to the Investigation are relevant to the claims and/or defenses in this action or that these Recordings were made without consent. Nothing in this Order shall be construed as deciding whether Plaintiffs are entitled to obtain a copy of any Recordings that were not produced to or by an Agency, and Plaintiffs shall be entitled to move to compel a copy of any such Recordings. Merrill Lynch maintains all objections and defenses to any such motion.

Plaintiffs' Motion to Compel Against Defendant Merrill Lynch, filed September 21, 2010, is DENIED as moot, and Plaintiffs' request for attorney's fees and costs is also DENIED.

So ORDERED this 19 day of ^{November}~~October~~, 2010.


~~J. Owen Forrester, Senior Judge~~
United States District Court
Julie E. Carnes, Chief Judge